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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,122	11/19/2001	Ilan Bloom	P-4007-US	8188
27130	7590	10/24/2005	EXAMINER	
EITAN, PEARL, LATZER & COHEN ZEDEK LLP 10 ROCKEFELLER PLAZA, SUITE 1001 NEW YORK, NY 10020			BOOTH, RICHARD A	
			ART UNIT	PAPER NUMBER
			2812	

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/988,122	Applicant(s) BLOOM ET AL.	
	Examiner Richard A. Booth	Art Unit 2812	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 3-8 and 16-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eitan et al., U.S. Patent 4,758,869 in view of Mitchell et al., U.S. Patent 5,120,672 and further in view of Cheung et al., U.S. Patent 6,156,149 and Wang, U.S. Patent 4,992,391.

Eitan et al. shows the invention substantially as claimed including forming a non-volatile memory device and forming a protective layer 12 over at least a portion of said non-volatile memory structure and to absorb electromagnetic energy having a wavelength shorter than visible light (see fig. 2 and col. 3-line 5 to col. 5-line 38).

Eitan fails to expressly disclose the non-volatile memory comprising a polycide structure formed over a non-conducting charge trapping layer, a resistive protective layer, and an additional layer over said protective layer.

Mitchell discloses forming a charge trapping layer of an ONO composite (see fig. 2 and abstract). In view of this disclosure, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process of Eitan so as to include a non-conducting charge trapping layer because the use of ONO floating gate electrodes is a well known suitable alternative to the use of conducting

charge trapping layers. Additionally, Cheung et al. discloses forming a protective layer to absorb light out of a resistive material (see col. 13-line 60 to col. 15-line 43). In view of this disclosure, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process of Eitan et al. modified by Mitchell so as to form a resistive protective material because Cheung et al. discloses these layers are also suitable for absorbing light.

Furthermore, Wang discloses a non-volatile memory including a polycide structure (18,20) and an additional layer 24 over the non-volatile memory (see figs. 2-4 and col. 3-line 30 to col. 4-line 49). In view of this disclosure, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a polycide structure because this improves the conductivity of the memory structure.

Concerning the particular material used for the additional layer and as previously stated, official notice is taken that the use of both doped and undoped layers are well known in the art as overlying passivation layers, for instance, in providing moisture protection to underlying devices and would have been obvious to include as the additional layer in the Wang reference.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eitan et al., U.S. Patent 4,758,869 in view of Mitchell et al., U.S. Patent 5,120,672 and further in view of Cheung et al., U.S. Patent 6,156,149 and Wang, U.S. Patent 4,992,391 as applied to claims 1-2 and 12-15 above, and further in view of Kimura et al., U.S. Patent 6,195,196.

Eitan et al., Mitchell et al., Cheung et al., and Wang are applied as above but do not expressly disclose the protection layer being highly resistive polysilicon.

Kimura et al. discloses using polysilicon as an ultraviolet absorber (see col. 18-lines 60-66). In view of this disclosure, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process so as to form the protective layer of polysilicon because Kimura et al. teaches this to be an effective material to absorb ultraviolet radiation.

Concerning the particular resistivity of the polysilicon, it would have been obvious to one of ordinary skill in the art to determine through routine experimentation the optimum resistivity of the polysilicon based upon a variety of factors including the desired electrical characteristics of the layer and such limitation would not lend patentability to the instant application absent the showing of unexpected results.

Response to Arguments

Applicant's arguments filed 10/3/05 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine the references is clearly described in the above rejections.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard A. Booth whose telephone number is (571) 272-1668. The examiner can normally be reached on Monday-Thursday from 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Lebentritt can be reached on (571) 272-1873. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Richard A. Booth', with a long horizontal flourish extending to the right.

Richard A. Booth
Primary Examiner
Art Unit 2812

October 20, 2005